REMARKS

By this amendment, Applicants have not amended the claims. As a result, claims 1-23 remain pending in this application. Reconsideration in view of the following remarks is respectfully requested.

In the Office Action, the Office rejects claim 1-23 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite.

With respect to claim 1, the Office alleges that "performance improvement" is unclear and indefinite. However, Applicants note that "[d]uring patent examination, the pending claims must be 'given their broadest reasonable interpretation consistent with the specification.'" MPEP 2111. Applicants note that the Office does not offer, or allege that there exists, two or more equally valid and conflicting interpretations of the meaning of the term that are consistent with the specification. Rather, the Office proposes a single definition that includes one way of measuring performance of a process. Applicants do not agree with the Office's proposed definition. Applicants respectfully submit that the specification uses "performance improvement" in a consistent manner that is also consistent with its ordinary and customary meaning in the art. See, e.g., specification, paragraphs 0036, 0037, 0049. As a result, Applicants submit that the Office has sufficient information to determine the broadest reasonable meaning of "performance improvement" that is consistent with the specification, and respectfully request withdrawal of the rejection of claim 1 as allegedly being indefinite. However, should the Office maintain this rejection, Applicants request that the Office further clarify why the Office cannot determine the broadest reasonable interpretation of "performance improvement" that is consistent with the specification.

With respect to claims 3 and 8, the Office alleges that "a most responsive process" is unclear and indefinite. However, Applicants note that the Office does not offer, or allege that there exists, two or more equally valid and conflicting interpretations of the meaning of the term that are consistent with the specification. Rather, the Office proposes a single definition that includes one way of determining the most responsive process. Applicants do not agree with the Office's proposed definition. Applicants again respectfully submit that the specification uses "most responsive process" in a consistent manner that is also consistent with its ordinary and customary meaning in the art. For example, the specification discusses a process that has the highest anticipated benefit for the set of available resources as an example. See, e.g., specification, paragraphs 0039, 0043. As a result, Applicants submit that the Office has sufficient information to determine the broadest reasonable meaning of "most responsive process" that is consistent with the specification, and respectfully request withdrawal of the rejection of claims 3 and 8 as allegedly being indefinite. However, should the Office maintain this rejection, Applicants request that the Office further clarify why the Office cannot determine the broadest reasonable interpretation of "most responsive process" that is consistent with the specification.

With respect to claims 7, 16, and 21, the Office alleges that "learned benefit knowledge" is unclear and indefinite. However, Applicants note that the Office does not offer, or allege that there exists, two or more equally valid and conflicting interpretations of the meaning of the term that are consistent with the specification. Rather, the Office proposes a single definition that includes one type of learned benefit knowledge. Applicants do not agree with the Office's proposed definition. Applicants again respectfully submit that the specification uses the term "learned benefit knowledge" in a consistent manner that is also consistent with its ordinary and

customary meaning in the art. For example, the specification describes illustrative solutions for generating learned benefit knowledge. See, e.g., specification, Abstract, paragraph 0035. Further, the claims expressly state that "learned benefit knowledge" includes information on at least one previous allocation of resources for a process. As a result, Applicants submit that the Office has sufficient information to determine the broadest reasonable meaning of "learned benefit knowledge" that is consistent with the specification, and respectfully request withdrawal of the rejection of claims 7, 16, and 21 as allegedly being indefinite. However, should the Office maintain this rejection, Applicants request that the Office further clarify why the Office cannot determine the broadest reasonable interpretation of "learned benefit knowledge" that is consistent with the specification.

Further, the Office rejects claims 1-6 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 5,473,773 (Aman) in view of U.S. Patent No. 6,665,716 (Hirata). In order to maintain a proper rejection under 35 U.S.C. § 103(a), the Office must show that the proposed combination of references teaches or suggests each feature of the claimed invention. Applicants respectfully submit that the Office fails to present such a showing.

For example, with respect to claim 1, Applicants respectfully submit that the Office fails, *inter alia*, to show that Aman teaches or suggests determining a set of available resources as in claim 1. In support of the rejection, the Office cites Aman, col. 3, lines 1-17; and col. 4, lines 14-20 as allegedly disclosing this feature. However, these portions of Aman describe resource reallocation from a donor performance goal class to a receiver performance goal class. To this extent, in Aman, the resources are not unallocated, and therefore available, resources, but are allocated and subsequently reallocated to another performance goal class. As described in the specification, allocation system allocates resources to process, which are available (i.e., not

allocated to another process). See, e.g., specification, paragraphs 0030, 0034. As a result,

Applicants submit that Aman fails to teach or suggest determining a set of available resources as

in claim 1. However, should the Office maintain the rejection, Applicants respectfully request

that the Office clarify its interpretation of the "determining a set of available resources" claim

feature and how the cited portions of Aman allegedly teach or suggest this feature.

With further respect to claim 1, Applicants respectfully submit that the Office fails to

show that Aman teaches or suggests determining an anticipated benefit for the set of available

resources for each process in the set of lagging processes, the anticipated benefit for each process

including an anticipated performance improvement to the process should the set of available

resources be allocated as additional resources for the process as in claim 1. Initially, Applicants

note that the Office recognizes that Aman does not include any teaching or suggestion for

determining a set of lagging processes. See, e.g., Final Office Action, p. 4. Further, as discussed

above, Aman does not include any teaching or suggestion for determining a set of available

resources. For these reasons, Aman does not teach or suggest the claimed feature.

Additionally, Applicants submit that the Office fails to show that Aman teaches or

suggests determining an anticipated benefit... for each process... as in claim 1. In contrast, Aman

determines a net value relative to changes for both a receiver and donor. Aman, col. 3, lines 45-

48. The receiver and donor are classes of work units. Aman, col. 3, lines 30-31, 44-45, Abstract.

In contrast, claim 1 determines an anticipated benefit for a set of available resources for each

process in the set of lagging processes. To the extent that the Office implies that the set of

lagging processes of claim 1 could be a receiver and/or donor in Aman, Aman expressly teaches

determining a net value by treating the set as a class, not by individually considering each process

in the class as in claim 1. As a result, Applicants submit that Aman fails to teach or suggest

determining an anticipated benefit... for each process... as in claim 1. However, should the

Office maintain the rejection, Applicants respectfully request that the Office clarify how the

teachings of Aman allegedly teach or suggest the consideration of individual processes as in

claim 1.

In light of the above, Applicants respectfully request withdrawal of the rejections of claim

1 and claims 2-6, which depend therefrom, as allegedly being unpatentable over Aman in view of

Hirata.

Further, the Office rejects claims 7-10, 13-19, and 21-23 under 35 U.S.C. § 103(a) as

allegedly being unpatentable over Aman in view of U.S. Patent No. 6,076,174 (Freund).

Applicants respectfully submit that the Office fails to present a sufficient showing to maintain the

rejection.

For example, with respect to claim 7, Applicants respectfully submit that the Office fails,

inter alia, to show that Aman teaches or suggests determining a set of available resources and/or

determining an anticipated benefit for the set of available resources for each process based on

learned benefit knowledge, each process executing on a computer system, the anticipated benefit

for each process including an anticipated performance improvement to the process should the set

of available resources be allocated as additional resources for the process as in claim 7.

Applicants note that the Office relies on the same portions of Aman that were cited in rejecting

similar features of claim 1. To this extent, Applicants incorporate the arguments presented above

with respect to claim 1.

Further, Applicants respectfully submit that the Office fails to show that Aman teaches or

suggests allocating at least some of the set of available resources to a process based on the

anticipated benefits as in claim 7. Initially, Applicants note that as discussed above, Aman

teaches adjusting system control data elements for classes of work units, not an individual

process as in claim 7. Further, Applicants note that Aman does not include any column 25, lines

34-39, which is cited by the Office in support of the rejection.

In light of the above, Applicants respectfully request withdrawal of the rejections of claim

7 and claims 8-10 and 13-15, which depend therefrom, as allegedly being unpatentable over

Aman in view of Freund. However, should the Office maintain the rejection, Applicants request

that the Office clarify the portion of Aman that supports its rejection, and the individual process

in Aman that is being allocated an available resource as in claim 7.

Additionally, Applicants note that claims 16 and 21 include features similar to those

discussed above with respect to claim 7. To this extent, Applicants herein incorporate the

arguments presented above with respect to claim 7 for claims 16 and 21. As a result, Applicants

also respectfully request withdrawal of the rejections of claim 16 and claims 17-19, which

depend therefrom, and claim 21 and claims 22-23, which depend therefrom, as allegedly being

unpatentable over Aman in view of Freund.

Further, the Office rejects claims 11-12 under 35 U.S.C. § 103(a) as allegedly being

unpatentable over Aman in view of Freund and further in view of Hirata. Applicants incorporate

the arguments presented above with respect to claim 7, from which these claims depend, and

respectfully request withdrawal of the rejection of claims 11-12 as allegedly being unpatentable

over Aman in view of Freund and further in view of Hirata for those reasons.

Further, the Office rejects claim 20 under 35 U.S.C. § 103(a) as allegedly being

unpatentable over Aman in view of Freund and further in view of U.S. Patent No. 5,996,013

(Delp). Applicants incorporate the arguments presented above with respect to claim 16, from

which claim 20 depends, and respectfully request withdrawal of the rejection of claim 20 as

allegedly being unpatentable over Aman in view of Freund and further in view of Delp for those reasons.

Applicants submit that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicants do not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicants do not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicants reserve the right to present such arguments in a later response should one be necessary and/or in a related patent application, either of which may seek to obtain protection for claims of a potentially broader scope.

In light of the above, Applicants respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the number listed below.

Respectfully submitted,

/John LaBatt/

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